

NEWS RELEASE

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DeNUCCI SAYS LAX WORKERS' COMP OVERSIGHT PENALIZES LAW-ABIDING EMPLOYERS

State Auditor Joe DeNucci reported today that hundreds of Massachusetts employers have been operating without required workers' compensation insurance for their employees due to inadequate oversight by the state Department of Industrial Accidents (DIA), creating an unfair burden on those employers who do pay for insurance.

According to DeNucci's audit, many employers have been allowed to remain open after being cited for failing to have workers' compensation insurance, and DIA has lagged in collecting fines from violators. As a result, employers who comply with the law have been forced to foot the bill for payment of claims to workers who have been injured while working for uninsured businesses.

"Law-abiding employers who carry the required coverage for their employees are placed at a competitive disadvantage because they are forced to pay higher premiums to compensate for those employers who don't follow the law," DeNucci said.

From April 1, 1986 to June 30, 1999, more than \$65 million in claims were paid to employees of uninsured firms from the employer-funded Workers Compensation Trust Fund.

State law calls for businesses that do not have workers' compensation insurance to be fined \$100 a day and given stop work orders (SWOs) until the required coverage is obtained. However, DeNucci's audit found that over 4,000 employers who were issued SWOs were never fined or penalized by DIA. The audit found that hundreds of employers remained open after DIA had imposed a stop work order, without any evidence that they had purchased insurance. In one six-month period, DIA was forced to reissue 82 SWOs to employers that should have remained closed, indicating a disregard for the law by these employers and a lack of enforcement by DIA.

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In addition to failing to enforce the stop work orders, DIA failed to assess or collect fines totaling \$22.2 million during a four-year period reviewed in the audit.

“I recognize this is a Catch-22 in that it isn’t practical to close down every non-complying employer,” DeNucci said. “However, that’s the law. For certain, the Department of Industrial Accidents needs to do a better job of enforcing the law so at least fines are collected and insurance coverage is obtained. After a reasonable period of time, the department should seek closure of the most blatant offenders. Otherwise, workers could be put at risk, and responsible employers will continue to pay more and more.”

In addition, DeNucci found that DIA has not yet resolved billing deficiencies that were uncovered in a prior audit. Although some improvements, such as the hiring of a collection agency, have been made, stricter controls are needed if the agency is going to be able to collect all the money it is owed. In calendar year 1998, DIA was forced to write off more than \$2.1 million in uncollected debt.

DeNucci did say that DIA has made progress in cutting its case backlog and reducing the time it takes to process workers’ compensation claims.

“The workers’ compensation system is in place to protect working people from costs associated with on-the-job injuries,” DeNucci said. “It’s the commonwealth’s responsibility to make sure that the burden is shared by all employers in an equitable manner.”